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Travails in Tax: Kpmg and the Tax-Shelter Controversy

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Abstract

This chapter tells two stories: the story of KPMG's emergence as an industry leader in the tax shelter market and the story of Mike Hamersley, a lawyer at the firm, who ultimately exposed its tax shelter activities after he was pressured to participate in an audit he believed to be fraudulent. From the late 1990s into the next decade, KPMG devoted significant resources to developing and mass marketing hundreds of abusive tax shelters. These products were designed to enable their purchasers - typically high wealth individuals and Fortune 500 companies - to avoid paying taxes on the huge financial gains they enjoyed during the stock market boom. Abusive tax shelters deprived the Treasury of tens of billions of dollars in lost tax revenue. KPMG, which made hundreds of millions of dollars from its tax shelter business, was by no means the only large accounting firm involved, but is likely the firm in the most trouble. After its tax shelter activities came to light, the Justice Department launched a criminal investigation, focusing on some thirty current and former partners and employees, many of them lawyers. KPMG's fall from grace offers a cautionary tale about the risks of law practice in large professional organizations in the 21st century. On an institutional level, it illustrates how business rationality can displace professional norms, a process accelerated at the firm by its enormous size, organizational structure, and deeply conformist culture. On an individual level, the KPMG story also provides a lesson in the growth of self-knowledge and personal accountability. Hamersley managed to avoid the processes of group-think and self-rationalization to which his colleagues succumbed, but he did not leave the firm early enough to avoid being put to the choice between engaging in conduct he believed was criminal or becoming a whistleblower and risking his career, reputation, and economic security in the process.

Keywords: lawyers, tax ethics, accounting firms, professional ethics, tax shelters[Suggested Citation](#) >[Show Contact Information](#) >[Download This Paper \(Delivery.cfm/SSRN_ID724321_code254274.pdf?abstractid=724321&mirid=1\)](#)[Open PDF in Browser \(Delivery.cfm/SSRN_ID724321_code254274.pdf?abstractid=724321&mirid=1&type=2\)](#)

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